IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

C.R. No. 3795 of 2007
Date of Decision: August 2, 2007

Pritam Singh ***.....Petitioner***

Versus

Veena Kundrai ***.....Respondent***

Coram: ***Hon'ble Mr.Justice Rajesh Bindal***

Present: Mr.Parminder Singh,Advocate for the petitioner

Rajesh Bindal,J.

This revision petition has been filed under Article 227 of the Constitution of India, for setting aside the impugned order dated 16.7.2007 passed by the Civil Judge (Junior Division), Karnal, whereby the application for seeking permission to produce additional evidence has been rejected.

The petitioner filed a suit for declaration with consequential relief of permanent injunction on the ground that he is in possession of the plot in dispute since 1986-87 and utilizing the same as owner in possession thereof. The suit was filed on June 4, 2002 which is now at the stage of rebuttal evidence and arguments. The application for leading additional evidence to prove notice issued to the petitioner under the Punjab Scheduled Roads and Controlled Areas Restriction of unregulated Development Act, 1963 (for short `the Act') was made, which according to the petitioner shows that he was owner in possession of the property at the time when the notice was issued to him. The prayer made by the petitioner was rejected by the trial Court on the ground that it is not a case where the evidence was not in the knowledge of the plaintiff-petitioner, or, he could not produce the same even after exercise of due diligence. In fact, the petitioner himself has stated about the issue of notice by the authorities under the Act in the plaint filed by him. Meaning thereby that

even at the time of filing of the suit, he was well within the knowledge of the fact that notice had been issued to him by the authorities under the Act. However, he still chose not to lead any evidence to that effect. Effort is to fill up the lacuna in the evidence led by the petitioner, which is impermissible

Under these circumstances, I do not find that any illegality has been committed by the trial Court while rejecting the prayer of the petitioner for leading additional evidence. Accordingly, I find no merit in the petition and the same is dismissed.

(Rajesh Bindal)
Judge

August 02, 2007
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